

[CHAPTER 639.]

AN ACT

To amend the Judicial Code to divide the middle district of Georgia into seven divisions by adding a new division to the middle district, and providing for terms of said court to be held at Thomasville, Georgia.

June 20, 1936.
[H. R. 11614.]
[Public, No. 733.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (d) and (e) of section 77 of the Judicial Code, as amended (U. S. C., 1934 edition, title 28, sec. 150), is amended as follows:

United States courts.
Georgia middle judicial district.
Vol. 44, p. 671; U. S. C., p. 1240.
Id., p. 681.
Athens division.

"(d) The middle district shall include seven divisions, constituted as follows: The Athens division, which shall include the territory embraced on January 1, 1925, in the counties of Clarke, Elbert, Franklin, Greene, Hart, Madison, Morgan, Oconee, Oglethorpe, and Walton; the Macon division, which shall include the territory embraced on such date in the counties of Baldwin, Bibb, Bleckley, Butts, Crawford, Hancock, Houston, Jasper, Jones, Lamar, Monroe, Peach, Pulaski, Putnam, Twiggs, Upson, Washington, and Wilkinson; the Columbus division, which shall include the territory embraced on such date in the counties of Chattahoochee, Clay, Harris, Marion, Meriwether, Muscogee, Quitman, Randolph, Stewart, Talbot, and Taylor; the Americus division, which shall include the territory embraced on such date in the counties of Crisp, Dooly, Lee, Macon, Schley, Sumter, Terrell, Webster, and Wilcox; the Albany division, which shall include the territory embraced on such date in the counties of Baker, Calhoun, Dougherty, Early, Miller, Mitchell, Turner, and Worth; the Valdosta division, which shall include the territory embraced on such date in the counties of Berrien, Cook, Echols, Irwin, Lanier, Lowndes, and Tift; and the Thomasville division, which shall include the territory embraced on such date in the counties of Thomas, Brooks, Colquitt, Grady, Decatur, and Seminole.

Macon division.

Columbus division.

Americus division.

Albany division.

Valdosta division.

Thomasville division.

Terms of court.

"(e) The terms of the district court for the Athens division shall be held at Athens on the first Mondays in June and December; for the Macon division at Macon on the first Mondays in May and November; for the Columbus division at Columbus on the first Mondays in March and September; for the Americus division at Americus on the second Mondays in February and June: *Provided*, That suitable rooms and accommodations are furnished for holding court at Americus free of cost to the Government until a public building shall have been erected or put into proper condition for such purpose in said city; for the Albany division at Albany on the first Mondays in April and October; for the Valdosta division at Valdosta on the third Mondays in March and September; and for the Thomasville division on the third Mondays in May and November: *Provided*, That suitable rooms and accommodations are furnished for holding court thereat free of cost to the Government at Thomasville."

Protees.
Rooms, etc., to be furnished at Americus.

Rooms, etc., at Thomasville.

Approved, June 20, 1936.

[CHAPTER 640.]

AN ACT

Relating to the admissibility in evidence of certain writings and records made in the regular course of business.

June 20, 1936.
[H. R. 11600.]
[Public, No. 734.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any court of the United States and in any court established by Act of Congress, any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible as evidence of

United States courts.
Admissibility of certain documentary evidence.

Lack of personal knowledge by entrant not to affect admissibility.

"Business" construed.

Certified foreign documents.

Authentications.

Testimony of witness in foreign country.

Application for issuance of commission.

Foreign counsel.

said act, transaction, occurrence, or event, if it shall appear that it was made in the regular course of any business, and that it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence, or event or within a reasonable time thereafter. All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but they shall not affect its admissibility. The term "business" shall include business, profession, occupation, and calling of every kind.

SEC. 2. Any book, paper, statement, record, account, writing, or other document, or any portion thereof, of whatever character and in whatever form, as well as any copy thereof equally with the original, which is not in the United States (hereinafter referred to as a foreign document) shall, when duly certified as hereinafter provided, be admissible in evidence in any criminal action or proceeding in any court of the United States if the court shall find, from all the testimony taken with respect to such foreign document pursuant to a commission executed under the provisions of this Act, that such document (or the original thereof in case such document is a copy) satisfies the requirements of section 1 of this Act, unless in the event that the genuineness of such document is denied, any party to such criminal action or proceeding making such denial shall establish to the satisfaction of the court that such document is not genuine. Nothing contained herein shall be deemed to require authentication under the provisions of this Act of any foreign documents which may otherwise be properly authenticated by law.

SEC. 3. (a) The testimony of any witness in a foreign country may be taken either on oral or written interrogatories, or on interrogatories partly oral and partly written, pursuant to a commission issued, as hereinafter provided, for the purpose of determining whether any foreign documents sought to be used in any criminal action or proceeding in any court of the United States are genuine, and whether the requirements of section 1 of this Act are satisfied with respect to any such document (or the original thereof in case such document is a copy). Application for the issuance of a commission for such purpose may be made to the court in which such action or proceeding is pending by the United States or any other party thereto, after five days' notice in writing by the applicant party, or his attorney, to the opposite party, or his attorney of record, which notice shall state the names and addresses of witnesses whose testimony is to be taken and the time when it is desired to take such testimony. In granting such application the court shall issue a commission for the purpose of taking the testimony sought by the applicant, addressed to any consular officer of the United States conveniently located for the purpose. In cases of testimony taken on oral or partly oral interrogatories, the court shall make provisions in the commission for the selection as hereinafter provided of foreign counsel to represent each party (except the United States) to the criminal action or proceeding in which the foreign documents in question are to be used, unless such party has, prior to the issuance of the commission, notified the court that he does not desire the selection of foreign counsel to represent him at the time of taking of such testimony. In cases of testimony taken on written interrogatories, such provision shall be made only upon the request of any such party prior to the issuance of such commission. Selection of foreign counsel shall be made by the party whom such foreign counsel is to represent within ten days prior to the taking of testimony or by the court from which the commission issued, upon the request of such party made within such time.

(b) Any consular officer to whom a commission is addressed to take testimony, who is interested in the outcome of the criminal action or proceeding in which the foreign documents in question are to be used or has participated in the prosecution of such action or proceeding, whether by investigations, preparation of evidence, or otherwise, may be disqualified on his own motion or on that of the United States or any other party to such criminal action or proceeding made to the court from which the commission issued at any time prior to the execution thereof. If, after notice and hearing, the court grants the motion, it shall instruct the consular officer thus disqualified to send the commission to any other consular officer of the United States named by the court, and such other officer shall execute the commission according to its terms and shall for all purposes be deemed the officer to whom the commission is addressed.

Consular officers.
Taking of testimony;
when disqualified.

(c) The provisions of this Act applicable to consular officers shall be applicable to diplomatic officers pursuant to such regulations as may be prescribed by the President.

Provisions applicable
to diplomatic officers.

SEC. 4. The consular officer to whom any commission authorized under this Act is addressed shall take testimony in accordance with its terms. Every person whose testimony is taken shall be cautioned and sworn to testify the whole truth and carefully examined. His testimony shall be reduced to writing or typewriting by the consular officer taking the testimony, or by some person under his personal supervision, or by the witness himself, in the presence of the consular officer and by no other person, and shall, after it has been reduced to writing or typewriting, be subscribed by the witness. Every foreign document, with respect to which testimony is taken, shall be annexed to such testimony and subscribed by each witness who appears for the purpose of establishing the genuineness of such document. When counsel for all the parties attend the examination of any witness whose testimony is to be taken on written interrogatories, they may consent that oral interrogatories in addition to those accompanying the commission may be put to the witness. The consular officer taking any testimony shall require an interpreter to be present when his services are needed or are requested by any party or his attorney.

Consular officer tak-
ing testimony.
Procedure, etc.

Foreign document to
be annexed to test-
imony; subscriptions.

Interpreters.

SEC. 5. If the consular officer executing any commission authorized under this Act shall be satisfied, upon all the testimony taken, that a foreign document is genuine, he shall certify such document to be genuine under the seal of his office. Such certification shall include a statement that he is not subject to disqualification under the provisions of section 3 (b) of this Act. He shall thereupon transmit, by mail, such foreign documents, together with the record of all testimony taken and the commission which has been executed, to the clerk of the court from which such commission issued, in the manner in which his official dispatches are transmitted to the Government. The clerk receiving any executed commission shall open it and shall make any foreign documents and record of testimony, transmitted with such commission, available for inspection by the parties to the criminal action or proceeding in which such documents are to be used, and said parties shall be furnished copies of such documents free of charge.

Consular certifica-
tions.

Transmittal of
foreign documents,
testimony, etc.

Inspection of docu-
ments.

SEC. 6. A copy of any foreign document of record or on file in a public office of a foreign country, or political subdivision thereof, certified by the lawful custodian of such document, shall be admissible in evidence in any court of the United States when authenticated by a certificate of a consular officer of the United States resident in such foreign country, under the seal of his office, certifying that the copy of such foreign document has been certified by the lawful custodian

Certified copies of
foreign documents of
record; admissibility.

R. S., sec. 907, p. 171.
U. S. C., p. 1302.

Fees.
Consular.
R. S., sec. 1745, p. 310.
U. S. C., p. 953.

Witnesses.

Foreign counsel, in-
terpreters, etc.

Affidavit by party
of inability to pay fees,
etc.

Payment of.

Appropriation avail-
able.

Regulations to be
prescribed.

Effective date.

thereof. Nothing contained in this section shall be deemed to alter, amend, or repeal section 907 of the Revised Statutes, as amended (U. S. C., title 28, sec. 689).

SEC. 7. (a) The consular fees prescribed under section 1745 of the Revised Statutes, as amended (U. S. C., title 22, sec. 127), for official services in connection with the taking of testimony under this Act, and the fees of any witness whose testimony is taken shall be paid by the party who applied for the commission pursuant to which such testimony was taken. Every witness under this Act shall be entitled to receive, for each day's attendance, fees prescribed under section 8 of this Act. Every foreign counsel selected pursuant to a commission issued on application of the United States, and every interpreter whose services are required by a consular officer under the provisions of this Act, shall be paid by the United States, such compensation, together with such personal and incidental expense upon verified statements filed with the consular officer, as he may allow. Compensation and expenses of foreign counsel selected pursuant to a commission issued on application of any party other than the United States shall be paid by the party whom such counsel represents and shall be allowed in the same manner.

(b) Whenever any party makes affidavit, prior to the issuance of a commission for the purpose of taking testimony, that he is not possessed of sufficient means and is actually unable to pay any fees and costs incurred under this section, such fees and costs shall, upon order of the court, be paid in the same manner as fees and costs are paid which are chargeable to the United States.

(c) Any appropriation available for the payment of fees and costs in the case of witnesses subpoenaed in behalf of the United States in criminal cases shall be available for any fees or costs which the United States is required to pay under this section.

SEC. 8. The President is authorized to prescribe regulations governing the manner of executing and returning commissions by consular officers under the provisions of this Act and schedules of fees allowable to witnesses, foreign counsel, and interpreters under section 7 of this Act.

SEC. 9. This Act shall be prospective only, and not retroactive.

Approved, June 20, 1936.

[CHAPTER 641.]

AN ACT

June 20, 1936.
[H. R. 12006.]
[Public, No. 735.]

To authorize a preliminary examination of the Kennebec River, Maine, and its tributaries, with a view to the control of their floods.

Kennebec River,
Maine.
Survey directed for
controlling floods of.

Vol. 39, p. 950; U. S.
C., p. 1487.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War is hereby authorized and directed to cause a preliminary examination to be made of the Kennebec River and its tributaries in the State of Maine, with a view to the control of their floods, in accordance with the provisions of section 3 of an Act entitled "An Act to provide for control of the floods of the Mississippi River and of the Sacramento River, California, and for other purposes", approved March 1, 1917, the cost thereof to be paid from appropriations heretofore or hereafter made for examinations, surveys, and contingencies of rivers and harbors.

Approved, June 20, 1936.